

National Coal, Inc. and United Mine Workers of America. Case 9-CA-29720

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS
DEVANEY AND RAUDABAUGH

On November 30, 1992, the National Labor Relations Board issued a Decision and Order,¹ *inter alia*, ordering National Coal, Inc. to make whole one of its unit employees for losses and expenses suffered as a result of the failure to assign certain coal removal work to the employee as required by the 1988 National Bituminous Coal Wage Agreement in violation of the National Labor Relations Act.

A controversy having arisen over the amount of backpay due employee Danny R. Hall, on November 30, 1992, the Regional Director for Region 9, issued a compliance specification and notice of hearing alleging the amount due under the Board's Order, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent has failed to file an answer.

By letter dated April 28, 1993, the Regional Attorney advised the Respondent that no answer to the compliance specification had been received and that unless an appropriate answer was filed by May 5, 1993, a Motion for Summary Judgment would be sought. The Respondent filed no answer.

On June 7, 1993, the General Counsel filed with the Board a Motion to Transfer the Proceedings to the Board and Motion for Summary Judgment and Memorandum in Support Thereof, with exhibits attached. On June 9, 1993, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

Ruling on the Motion for Summary Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specifica-

tion. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the net backpay due the discriminatee is as stated in the compliance specification and we will order payment by the Respondent to the discriminatee.

ORDER

The National Labor Relations Board orders that the Respondent, National Coal, Inc., Holden, West Virginia, its officers, agents, successors, and assigns, shall make whole the individual named below, by paying him the amount following his name, with interest to be computed in the manner prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), minus tax withholdings required by Federal and state laws:

Danny R. Hall \$1,221.96

Dated, Washington, D.C. July 13, 1993

James M. Stephens, Chairman

Dennis M. Devaney, Member

John Neil Raudabaugh, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

¹ 309 NLRB No. 92.